

REMARKS

Applicant has received and reviewed the Final Office Action mailed by the Office on September 25, 2007 (hereinafter, "Final Action"), and submits this response to the Final Action with a request for continued examination (RCE).

Applicant amends Claims 1, 6-9, 19, and 31 to clarify claimed subject matter and/or correct informalities. The original specification and drawings support these claim amendments at least at pages 5, 6, 10, and at least in Figure 4. Therefore, these revisions introduce no new matter.

Applicant cancels Claims 14 and 33 without prejudice, waiver, or disclaimer of the subject matter. Applicant respectfully requests reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks.

Previous Claims Rejections Under 35 USC § 102

Applicant appreciates Examiner's withdrawal of the 35 U.S.C. §101, §112, and §102 rejections in the previous Office Action.

Claim Objections

Claim 14 stands objected to under 35 U.S.C. §1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant cancels Claim 14 without prejudice, waiver, or disclaimer of the subject matter. As a result the objection is now moot. Applicant respectfully requests that the objection be withdrawn.

§ 101 Rejections

Claims 9 and 33 stand rejected under 35 U.S.C. § 101 because the claimed disclosed invention is inoperative and therefore lacks unity. Applicant respectfully traverses the rejection.

Applicant amends Claim 9 and the relating claims, Claims 6-8. For example, Claim 9 now recites “The method as recited in claim 6, wherein the second client device is one of a personal computer, a personal digital assistant, a digital versatile disk player, or a personal video recorder”.

Applicant cancels Claim 33. Applicant respectfully submits that these claims now comply with §101, and as a result the rejections are now moot. Applicant respectfully requests that the §101 rejection for the claims be withdrawn.

§ 103 Rejections

A. Claims 1, 6-9, 19, 24, and 31-35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication 2003/0016842 to Patton et al. (hereinafter “Patton”) in view of U.S. Patent Application Publication 2003/0110516 to Chang et al.(hereinafter “Chang”).

B. Claims 2 and 11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Application Number 2003/0016842 to Patton et al. (hereinafter “Patton”) and Chang, further in view of U.S. Patent No. 6,411,712 to Yoshida et al. (hereinafter “Yoshida”).

C. Claims 3, 4, 13-16, and 20-23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Patton, Chang, and Yoshida, further in view of U.S. Patent Application No. 2002/0080964 to Stone et al. (hereinafter “Stone”).

D. Claims 17 and 18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Patton, Chang, Yoshida, and Stone, further in view of U.S. Patent Application No. 2003/0037010 to Schmelzer et al. (hereinafter “Schmelzer”).

E. Claim 25 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Patton and Chang further in view of U.S. Patent Application No. 2003/0165253 to Simpson et al. (hereinafter “Simpson”).

F. Claims 26 and 27 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Patton, Chang, and Simpson, further in view of U.S. Patent Application No. 2003/0037010 to Schmelzer et al. (hereinafter “Schmelzer”).

G. Claims 28 and 29 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Patton, Chang, Simpson, Schmelzer, and further in view of U.S. Patent Application No. 2002/0080964 to Stone et al. (hereinafter “Stone”). Applicant respectfully traverses the rejection.

Without conceding the propriety of the stated rejections, and only to advance the prosecution of this application, Applicant amends **independent Claim 1**, to clarify further features of the subject matter. Amended Claim 1 now recites:

A method, comprising:
receiving video content to be protected from redistribution;
adding a personal identifier in the video content;
retaining the personal identifier on a hidden border of a frame
on a television monitor; and
displaying the personal identifier when the video content is
transferred to a computing device;

wherein the personal identifier displays information associated with a user of the video content;

wherein the personal identifier is placed on at least one of a fixed number of frames or a fixed number of scanned analog video content;

wherein the personal identifier distinguishes channels to brand and channels to leave unbranded, branded channels having a level of security for a program.

Applicant respectfully submits that no such method for video content is disclosed, taught, or suggested by Patton and/or Chang, the primary and secondary references, in all of the §103 rejections.

Patton and Chang Fail to Disclose, Teach or Suggest Placement of Personal Identifier and Branding of Channels

First, Patton is directed towards a digital string which has latent value to the purchaser (Abstract). In Patton, there is an embedded digitized image representing valued content produced on the image as shown in FIG. 6a and FIG. 6b. The digital string contains information that places the purchaser at increased financial risk when known by another ([0030]). Applicant submits that Patton fails to disclose, teach, or suggest "*the personal identifier is placed on at least one of a fixed number of frames or a fixed number of scanned analog video content; wherein the personal identifier distinguishes channels to brand and channels to leave unbranded, branded channels having a level of security for a program*", as recited in Applicant's amended Claim 1.

Second, Applicant submits that Chang fails to compensate for the deficiencies of Patton. Chang is directed towards conveying information pertaining to broadcast content such that the system is robust and stripping or blocking data is difficult (Abstract). The non-VBI enhancement in Chang embeds an object, such as an image into the active video

area of TV content ([0023]). While Chang mentions the object might be overscanned and not seen on the TV monitor ([0029]), there is no mention of “*personal identifier is placed on at least one of a fixed number of frames or a fixed number of scanned analog video content*”, as recited in Applicant’s amended Claim 1.

Patton and Chang, alone or in combination, do not teach or suggest “*the personal identifier is placed on at least one of a fixed number of frames or a fixed number of scanned analog video content; wherein the personal identifier distinguishes channels to brand and channels to leave unbranded, branded channels having a level of security for a program*”, as recited in Applicant’s amended Claim 1. Applicant requests that the §103 rejections be withdrawn. Accordingly, Applicant submits that the evidence relied upon by the Office no longer supports the rejections made under §103.

No Reason to Modify or Combine References

A. Modification Renders Primary Reference Unsatisfactory for Intended Purpose

Third, the MPEP states, “if proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification” (MPEP §2143.01 V.)

Applicant reviews the evidence and submits that the evidence no longer establishes a reason for one of ordinary skill in the art, to modify the system of Chang to include the content of Patton. For example, modifying Chang to include the latent valued content of Patton would render Chang unsatisfactory for its intended purpose. In particular, the system of Chang would be rendered unsatisfactory to convey information pertaining to

broadcast content such that the system is robust and stripping or blocking data is difficult. Therefore, this modification presented would render Chang inoperable.

Thus, there is no evidence to modify the references, as the modification would render the Chang unsatisfactory for its intended purpose in conveying information pertaining to broadcast content. Applicant submits that the evidence relied upon by the Office does not support the rejections made under §103.

B. Insufficient Evidence to Suggest Reason Obviousness

Fourth, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness... KSR Int'l Corp. v. Teleflex, Inc., Slip Op. at 14 (U.S. Apr. 30, 20076) (quoting *In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006)). The Office stated it was obvious to “include the embedding information outside the safe area of a TV. That one of ordinary skill the art would have been motivated to perform such an addition to allow embedding important information in signals that do not degrade performance and also prevents data being lost in systems”. Applicant respectfully disagrees and submits that the rejection for obviousness is not well reasoned, because there is nothing in either of the references to demonstrate one of ordinary skill in the art would suggest this reason.

Furthermore, there is no articulated reason with some rational underpinning to support this rejection. Instead, the asserted reason relies on hindsight without evidence of articulated reasoning to propose the suggested modification. This rejection is improper for this additional reason.

Independent Claims 6, 19, and 31 as amended, are directed towards a method, a branding engine, and a computer readable media, and each are allowable for reasons similar to those discussed above with respect to Claim 1.

Dependent Claims 2-4, 7-9, 11-13, 15-18, 20-30, 32, and 34-35 depend directly or indirectly from one of independent Claims 1, 6, 19, and 31, respectively, and thus are allowable as depending from an allowable base claim. These claims are also allowable for their own recited features that, in combination with those recited in Claims 1, 6, 19, and 31, respectively, are not disclosed, taught, or suggested by Patton and/or Chang, alone or in combination.

Applicant respectfully submits that the cited references do not render the claimed subject matter obvious and that the claimed subject matter, therefore, patentably distinguishes over the cited references. For all of these reasons, Applicant respectfully requests the §103 rejection of these claims should be withdrawn.

Conclusion

Claims 1-4, 6-9, 11-13, 15-29, 31-32, and 34-35 are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of the subject application. If any issue remains unresolved that would prevent allowance of this case, the Office is requested to contact the undersigned attorney to resolve the issue.

Respectfully Submitted,

Lee & Hayes, PLLC
421 W. Riverside Avenue, Suite 500
Spokane, WA 99201

Dated: 1-25-2008

By:

Shirley Lee Anderson
Shirley Lee Anderson
Reg. No. 57,763
509.324.9256 ext. 258